

IN THE UNITED STATES BANKRUPTCY
COURT FOR THE WESTERN DISTRICT OF
NORTH CAROLINA
CHARLOTTE DIVISION

U.S. Bankruptcy Court
Western District of NC
AUG 21 2017
Sergeant T. Sledge, Clerk
Charlotte Division
CCW

IN THE MATTER OF:

NAME: JACOBS, SUSAN GAIL WALLACE

CHAPTER 7 NO. 15-31501

ADDRESS: 3417 Driftwood Drive
Gastonia, NC 28056

SSN: -----7567

DEBTOR

GRAY LAYTON KERSH SOLOMON FURR &
SMITH, P.A. (as escrow agents on assignment
From ED WALLACE CONSTRUCTION, INC. in
Trust, and for the benefit of CAREY WALLACE
BUMGARDNER, and CLAY WALLACE),

PLAINTIFF

Adversary Proceeding: 15-03182

Versus

JACOBS, SUSAN GAIL WALLACE,

DEFENDANT.

MOTION FOR DISCHARGE DUE TO NON-COMPLIANCE WITH COURT ORDER.

Now comes Susan Jacobs, pro se defendant in case of GRAY LAYTON KERSH SOLOMON FURR & SMITH, P.A. (as escrow agents on assignment From ED WALLACE CONSTRUCTION, INC. in Trust, and for the benefit of CAREY WALLACE BUMGARDNER, and CLAY WALLACE), Versus SUSAN GAIL WALLACE Jacobs, DEFENDANT. I request a motion for sanctions for non-compliance of the Bankruptcy Rule 7016 court order dated May 22, 2017

GRAY LAYTON KERSH SOLOMON FURR & SMITH, P.A. missed the August 14, 2017 and the August 16, 2017 date to serve any information to defendant until August 18, 2017. GRAY LAYTON KERSH SOLOMON FURR & SMITH, P.A. received defendant's information on August 7, 2017.

Number 4. "If any party desires to submit a trial brief or other submission of authorities, it must be filed and served on opposing parties no later than the deadline set out in paragraph 3 above. Paragraph 3 date was August 16, 2017 the date mailed, not served.

GRAY LAYTON KERSH SOLOMON FURR & SMITH, P.A. mailed to my residence in uncertified mailing (I have the dated envelope) and I received information two days after the court ordered date. Upon reviewing the information I realized Mr. Moore had removed his exhibits that proved that as acting executrix I made correct decisions for the good of Ed Wallace Construction, Inc. For example missing from the new evidence was

A. The 2011 and 2012 tax returns showing a very successful company, which the beneficiaries wanted me to sale, but they did not sale. Plaintiff exhibits 160 and 161.

B. The original Form 706 Inheritance Tax Form showing -0- Tax liability dated 11-04-08 and was dated before the “working paper Form 706” dated 12-31-08. “Working paper Form 706” was prepared to show how I was protecting the Estate from unnecessary Inheritance taxes liability of \$584,216. Plaintiff’s Exhibit 87 and Defendant’s exhibit 8. GRAY LAYTON KERSH SOLOMON FURR & SMITH, P.A. made “working paper Form 706” dated 12-31-08 was prepared before original Form 706 Inheritance Tax Form showing -0- Tax liability dated 11-04-08 making it appear that I lowered the value to protect self from interest and penalty. Check the computer generated dates on both return, -0- liability return was done first.

C. Dun and Bradstreet report was missing that was not allowed to be used in any “legal proceeding” per users terms, but was introduced to the jury in Lincoln Country Trial.

Exhibit 102

Actual receipt of the information and documents on August 18, 2017 at 5:30 Friday afternoon, after hours to call court or GRAY LAYTON KERSH SOLOMON FURR & SMITH, P.A. offices. GRAY LAYTON KERSH SOLOMON FURR & SMITH, P.A. should understand the need for discovery in a timely manner in order to aid the court to operate smoothly allowing me to prepare my defense with the evidence he pulled.

GRAY LAYTON KERSH SOLOMON FURR & SMITH, P.A. also misstated the Certificate of Service in using the term SERVED, I was not served until after the Court Ordered date of August 16, 2017. Actual receipt of information and documents were received on August 18, 2017. This gave me very little time to review, find the missing evidence that I was lead to believe would all be turned in by the plaintiffs and to prepare a defense for the onslaught of information they have.

Due to the plaintiff's non-compliance with any deadlines to defendant, Susan Jacobs, tried very hard to prepare for trial and is under personal hardship to continue this. My husband fell and a spinal cord contusion cause loss of use of left arm. Second fall caused a break in his neck. Personal hardships happen to everyone, but I struggle to properly prepare for a trial where they gave no time to prepare. Under Rule 41 (b) Defendant, Susan Jacobs respectfully request sanctions for GRAY LAYTON KERSH SOLOMON FURR & SMITH, P.A. for disregard to court orders and the sanctions requested are:

- A. That the plaintiff's motion for the amount of \$262,689 with interest at the legal rate of 8% per annual from January 8, 2013 plus cost in the amount of \$7,936.29 judgment be denied**
- B. That the plaintiff's motion for punitive damages of \$40,000 be denied. (Citing case Mary Angela Spell, plaintiff, vs. Daniel Charles Longenecker, Defendant. Case No. 05-10492-70 Adversary No. 05-2035)**
- C. That the court issue costs of the adversary proceeding to defendant debtor since both defendant and plaintiff benefited from the transcripts which**

costs and Plaintiff, Gray Layton Kersh Solomon Furr & Smith, PA. and Plaintiff's legal representation should have been aware the consequences of missing deadlines.

Documentation provided.

1. Lisa A Garrison contract for	\$6,633.00
2. Rose Gates – two checks for	392.00
3. All Professionals Litigation Support Team, Inc.	242.50
<u>4. Jim Henderson Legal fees</u>	<u>13,834.00</u>
Total	\$21,101.50

D. That the Defendant have such other and further relief as the Court may deem just and proper.

Submitted this day, August 21, 2017 by



Pro Se Defendant

CERTIFICATE OF SERVICE

This is to certify that the foregoing DEFENDANT'S **MOTION FOR DISCHARGE DUE TO NON-COMPLIANCE WITH COURT ORDER**

to be decided was personally served in United States Bankruptcy Court on August 21, 2017 to the following attorney(s) of record:

David Smith <dsmith@gastonlegal.com>
Bill Moore <bmoore@gastonlegal.com>
Gray, Layton, Kersh, Solomon, Furr, & Smith, P.A.

516 New Hope Road
P. O. Box 2636
Gastonia, NC 28053-2636
704-865-4400

144

JAMES H JACOBS
SUSAN W JACOBS
PO BOX 4022
GASTONIA NC 28056-4022
PAY TO Cash
One Thousand and 00/100 Dollars 00/100
60536011260005118347686#00144

6-19-14

Cashier's Check
Signature: *Susan Jacobs*

CHECK# : 144 \$1,000.00

146

JAMES H JACOBS
SUSAN W JACOBS
PO BOX 4022
GASTONIA NC 28056-4022
PAY TO Linda Johnson, MD, PA
Linda Johnson, MD, PA
7-15-14
5895.00
CASHIER'S CHECK
Signature: *Susan Jacobs*

60536011260005118347686#00146

CHECK# : 146 \$895.00

148

JAMES H JACOBS
SUSAN W JACOBS
PO BOX 4022
GASTONIA NC 28056-4022
PAY TO Mele Holmes Court Reporting
Mele Holmes Court Reporting
7-14-14
\$932.00
One hundred thirty-two and 00/100 Dollars 00/100
CASHIER'S CHECK
Signature: *Susan Jacobs*

60536011260005118347686#00148

CHECK# : 148 \$932.00

145

JAMES H JACOBS
SUSAN W JACOBS
PO BOX 4022
GASTONIA NC 28056-4022
PAY TO Lowe's
Ten hundred seventy-three and 55/100 Dollars 00/100
6-20-14
\$273.80
CASHIER'S CHECK
Signature: *Susan Jacobs*

60536011260005118347686#00145

CHECK# : 145 \$273.80

147

JAMES H JACOBS
SUSAN W JACOBS
PO BOX 4022
GASTONIA NC 28056-4022
PAY TO Linda E Nable
Three thousand sixty-two and 00/100 Dollars 00/100
7-14-14
\$3,062.00
CASHIER'S CHECK
Signature: *Susan Jacobs*

60536011260005118347686#00147

CHECK# : 147 \$3,062.00

000249

To: Garrison, Lisa A.
Subject: Re: Transcript contract

Lisa,

Please let me know asap as I can get copy of transcript to attorney. I am presently in the hospital and will be in rehab for a while. Cellulitis.

Thank you,
Susan

On Wednesday, February 25, 2015 7:19 AM, "Garrison, Lisa A." <Lisa.A.Garrison@nccourts.org> wrote:

Susan,

I wanted to let you know I am working on finishing up the transcript and plan to have it delivered to you the first of next week, the week of March 2, 2015. Per our contract I am to give you seven days' notice of when the transcript will be completed so that you may make the final payment. The final page count of the transcript is going to be no more than 2,211, so the total cost of the transcript is \$6,633. With the deposit of \$3,300 you paid previously, the remaining balance will be \$3,333. As before, you may send the check to the address below.

If you have any questions, please do not hesitate to contact me.

Lisa A. Garrison, RDR, CRR
Official Court Reporter
1224 Sedgewood Lane
Lincolnton, NC 28092
Cell - 828.310.6760
Lisa.A.Garrison@nccourts.org

From: Garrison, Lisa A.
Sent: Sunday, February 08, 2015 10:18 AM
To: JAMES JACOBS
Subject: RE: Transcript contract

Susan,

I just wanted to check in with you and let you know I am on schedule with having the transcript prepared by February 28. I also wanted to check with you to see if Aaron Low had reminded you that I was not there for one morning session of court and another reporter replaced me. Therefore, you will need to order that portion of the transcript from her because it will not be in my transcript. The witness on the stand was Jack Wallace and the date is the morning session of July 2, 2014. Rose Gates was the reporter. Her phone numbers are (cell) 828-387-1089 and (home) 828-733-1602. I'm sorry that I don't have her email address.

Lisa A. Garrison, RDR, CRR
Official Court Reporter
1224 Sedgewood Lane
Lincolnton, NC 28092
Cell - 828.310.6760
Lisa.A.Garrison@nccourts.org

000250

113

68-112531

JAMES H JACOBS
PH. 704-864-7682
3417 DRIFTWOOD DR.
GASTONIA, NC 28056-3324

Jul. 26, 2015
Date

PAY *to the order of* Lion A. Marion | \$ 3,333.00
Three thousand three-hundred and thirty-three and 00/100 Dollars 



BRANCH BANKING AND TRUST COMPANY
1-800-BANK BB&T 800-226-3628

Transcript find your signature James H Jacobs
For *James H Jacobs* *James H Jacobs* *BB&T*
10531061260005204906795#00113

000251

000252

MAIN LINE DISTRIBUTORS
3417 Driftwood Dr
Gastonia, NC 28056
Ph. 704-864-7682

53651
66-112/531

DATE 12-8-14

DAY THE 12 OF DECEMBER

ONE THOUSAND THREE HUNDRED AND 00/100 DOLLARS

\$ 3,300.00

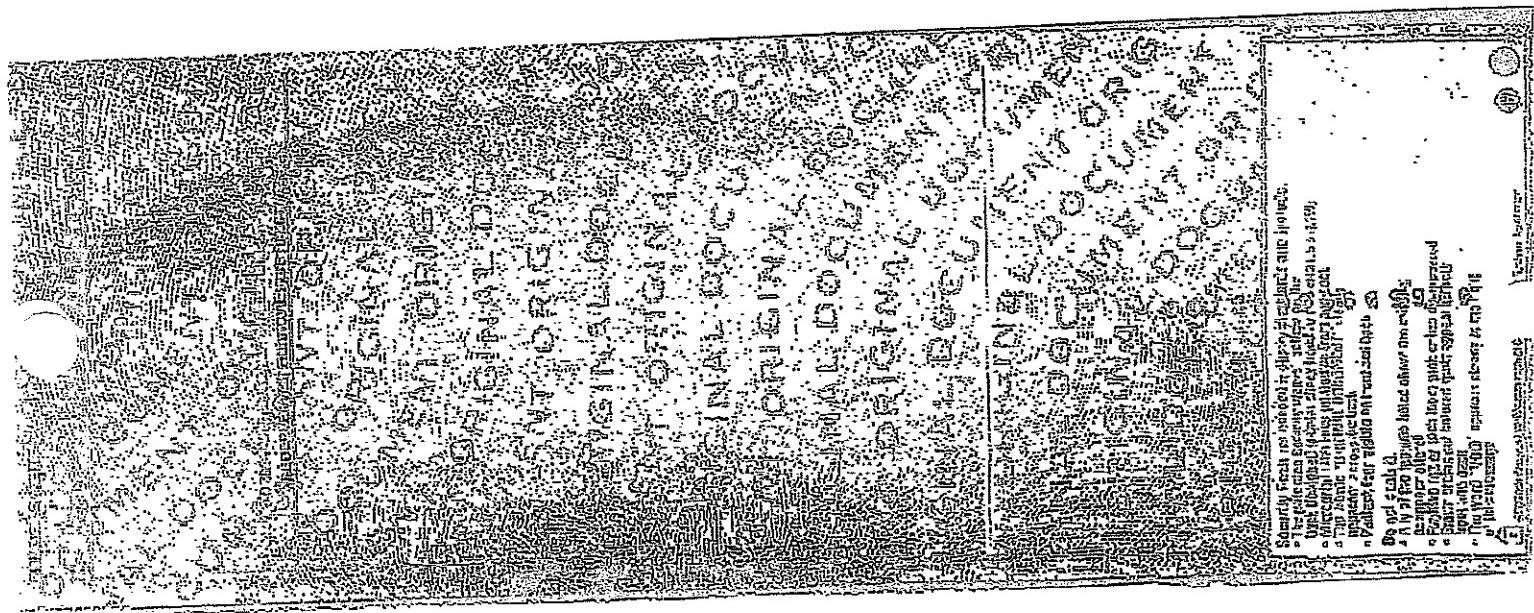


BRANCH BANKING AND TRUST COMPANY
1-800-BANK-BBT BBT.com

FOR E. Wallace Court, the V Susan W. Jacobs Susan Jacobs

#000536561# 12053106128100052962264081#

000253



000254

From: JAMES JACOBS [mjcssm@bellsouth.net]
Sent: Tuesday, December 09, 2014 4:58 PM
To: Garrison, Lisa A.
Subject: Transcript contract

Lisa,

A check and signed contract went in the mail today. Please let me know if there is any problem.

Thanks,
Susan

.000255

Lisa.A.Garrison@nccourts.org
to JAMES JACOBS
cc Chuck Early

Wed, Mar 4 9:41 PM

RE: Transcript contract.

10 files attached ^ Save all

 Transcript-Bumgardn...
.pdf 278 KB

 Transcript-Bumgardn...
.pdf 509 KB

 Transcript-Bumgardn...
.pdf 322 KB

 Transcript-Bumgardn...
.pdf 696 KB

 Transcript-Bumgardn...
.pdf 598 KB

 Transcript-Bumgardn...
.pdf 469 KB

 Transcript-Bumgardn...
.pdf 530 KB

 Transcript-Bumgardn...
.pdf 786 KB

 Transcript-Bumgardn...
.pdf 604 KB

 Transcript-Bumgardn...
.pdf 476 KB

Susan:

Please find attached my portion of the transcript in Lincoln County File No. 13-CvS-24, Bumgardner v. Jacobs, heard before Judge Hugh Lewis from June 23, 2014, through July 9, 2014. You should have received ten volumes (files), Volumes I through VI and Volumes VIII through XI. Volume VII is being prepared by Court Reporter Rose Gates and it will be sent to you by her in a separate email. I have copied your attorney on this email with the email address you forwarded to me. Per our rules I will also be sending you a CD with these same files on it via USPS.

If you have any questions or concerns, please do not hesitate to contact me.

Lisa

Lisa A. Garrison, RDR, CRR
Official Court Reporter
1224 Sedgewood Lane
Lincolnton, NC 28092
Cell - 828.310.6760
Lisa.A.Garrison@nccourts.org

From: JAMES JACOBS [mldssm@bellsouth.net]
Sent: Tuesday, March 03, 2015 2:55 PM

000256

Lisa.A.Garrison@nccourts.org
to mldssm@bellsouth.net
cc Lisa.A.Garrison@nccourts.org

Wed, Feb 25 7:19 AM

RE: Transcript contract

Susan,

I wanted to let you know I am working on finishing up the transcript and plan to have it delivered to you the first of next week, the week of March 2, 2015. Per our contract I am to give you seven days' notice of when the transcript will be completed so that you may make the final payment. The final page count of the transcript is going to be no more than 2,211, so the total cost of the transcript is \$6,633. With the deposit of \$3,300 you paid previously, the remaining balance will be \$3,333. As before, you may send the check to the address below.

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Lisa.A.Garrison@nccourts.org

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Sent: Tuesday, December 09, 2014 4:58 PM
To: Garrison, Lisa A.
Subject: Transcript contract

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000257

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Thanks,
Susan

000258

JAMES H JACOBS
PH. 704-864-7682
3417 DRIFTWOOD DR
GASTONIA, NC 28056-3324

119
66-112/531

PAY to the order of	John Gatz	\$ 292.00
One-hundred ninety-two and no/10		Dollars
		1
 BRANCH BANKING AND TRUST COMPANY 1-300 BANK BBT EST 1904		
For pd. in full transcript		Signature <i>John H. Gatz</i>
100051006295#00119		

13

BRANCH BANKING AND TRUST COMPANY
1-202 MARKET STREET PHILADELPHIA

For pd. in full transcript Signature
005310 1124:0005 204906 79500 119

00:05:30 8/12/2011:00005 204906 775#00167

UCBI >061112843<
2015-03-13 1181073262

1181073262 2015-03-13

Type	Date	Amount	Time
Cashed Check W/fee	14703/13/15	\$292.00	15:48

Yours Sincerely
John G. Morris

000260

JAMES H JACOBS
PH. 704-864-7682
2417 DRIFTWOOD DR
GASTONIA, NC 28056-9324

111

60-112631

2-16-15

Date

PAY Rose Gates \$ 100.00
in the order of
One hundred and 00 - Dollars Cents
 BRANCH BANKING AND TRUST COMPANY
1000 BANK BB&T CENTER
For Transcript of Estate of Ed Waller Susan Gates
16053801828000520490679551000116

00026

FOR DEFECT ONLY
STATE EMPLOYEES CREDIT UNION
NEWLAND 204 TELER # 7000

000262



All Professionals Litigation Support Team, Inc.
6307 Amie Lane · Pearland, TX 77584-2601
Phone (713) 637-8864 · www.aplst.com

Federal ID 84-1651288
Terms Net 30 Days

February 22, 2017

Susan Gail Wallace Jacobs
3417 Driftwood Drive
Gastonia, NC 28056

Invoice No. 17-1798

Date	Service	Pages	Rate	Amount
02/22/17	Job Ref. United States Bankruptcy Court Western District of North Carolina Case No. 15-3182 (Gray Layton et al v. Susan G.W. Jacobs) Transcriber and proofread 02/15/17 hearing Payment received, card ending 0349	50	4.85	242.50 -242.50
Please pay this amount				\$ Paid



000263